

Regular Session, 2010

# ACT No. 945

HOUSE BILL NO. 1292 (Substitute for House Bill No. 718 by Representative Hines)

BY REPRESENTATIVES HINES, ABRAMSON, ARNOLD, AUSTIN BADON, BALDONE, BILLIOT, TIM BURNS, CARMODY, CONNICK, GISCLAIR, HARDY, HAZEL, HENRY, HOWARD, LABRUZZO, LEGER, LIGI, LORUSSO, NORTON, POPE, PUGH, RICHARD, SCHRODER, SMILEY, GARY SMITH, JANE SMITH, ST. GERMAIN, THIBAUT, THIERRY, TUCKER, WADDELL, AND WILLMOTT

## AN ACT

To enact R.S. 38:2227, relative to bidders on public projects; to prohibit certain contractors from bidding on public projects; to provide for disqualifying crimes; to provide for proof of false attestations; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 38:2227 is hereby enacted to read as follows:

### §2227. Exclusion of certain contractors from bidding

A. Each public entity advertising and letting for bid a public works contract shall require each bidder, in addition to the provisions of R.S. 38:2212(A)(3)(c)(ii), after the opening of bids, if a sole proprietor, to attest that he has not been convicted of, or has not entered a plea of guilty or nolo contendere to any of the crimes or equivalent federal crimes listed in Subsection B of this Section. Each bidding entity shall submit an attestation that no individual partner, incorporator, director, manager, officer, organizer, or member, who has a minimum of a ten percent ownership in the bidding entity, has been convicted of, or has entered a plea of guilty or nolo contendere to any of the crimes or equivalent federal crimes listed in Subsection B of this Section.

B.(1) A conviction of or plea of guilty or nolo contendere to the following state crimes or equivalent federal crimes shall permanently bar any person or the bidding entity from bidding on public projects:

(a) Public bribery (R.S. 14:118).

1                   **(b) Corrupt influencing (R.S. 14:120).**

2                   **(c) Extortion (R.S. 14:66).**

3                   **(d) Money laundering (R.S. 14:230).**

4                   **(2) A conviction of or plea of guilty or nolo contendere to the following state**  
5                   **crimes or equivalent federal crimes shall bar any person or the bidding entity from**  
6                   **bidding on public projects for a period of five years from the date of conviction or**  
7                   **from the date of the entrance of the plea of guilty or nolo contendere:**

8                   **(a) Theft (R.S. 14:67).**

9                   **(b) Identity Theft (R.S. 14:67.16).**

10                  **(c) Theft of a business record (R.S. 14:67.20).**

11                  **(d) False accounting (R.S. 14:70).**

12                  **(e) Issuing worthless checks (R.S. 14:71).**

13                  **(f) Bank fraud (R.S. 14:71.1).**

14                  **(g) Forgery (R.S. 14:72).**

15                  **(h) Contractors; misapplication of payments (R.S. 14:202).**

16                  **(i) Malfeasance in office (R.S. 14:134).**

17                  **C. The five-year prohibition provided for in Paragraph (B)(2) of this Section**  
18                  **shall apply only if the crime was committed during the solicitation or execution of**  
19                  **a contract or bid awarded pursuant to the provisions of Chapter 10 of this Title.**

20                  **D.(1) The provisions of this Section shall not impose a duty, responsibility,**  
21                  **or requirement on a public entity to perform criminal background checks on**  
22                  **contractors, vendors, or subcontractors. It shall be the responsibility of any person,**  
23                  **company, or entity making an allegation of false attestation to present prima facie**  
24                  **proof to the public entity supporting their claim.**

25                  **(2) If evidence is submitted substantiating that a false attestation has been**  
26                  **made and the project must be readvertised or the contract cancelled, the awarded**  
27                  **entity making the false attestation shall be responsible to the public entity for the**  
28                  **costs of rebidding, additional costs due to increased costs of bids and any and all**  
29                  **delay costs due to the rebid or cancellation of the contract.**

1                   (3) The requirements of this Section and any attestations made shall apply  
2                   to convictions and pleas entered prior to the awarding of contracts.

3                   Section 2. The provisions of this Act shall be applied prospectively. The Act shall  
4                   apply only to convictions or pleas entered after the effective date of this Act.

5                   Section 3. This Act shall become effective upon signature by the governor or, if not  
6                   signed by the governor, upon expiration of the time for bills to become law without signature  
7                   by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
8                   vetoed by the governor and subsequently approved by the legislature, this Act shall become  
9                   effective on the day following such approval.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_